



Insurance Department

State of Utah

GARY R. HERBERT

Governor

SPENCER J. COX

Lieutenant Governor

TODD E. KISER

Acting Commissioner

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: **May** 12, 2014

Time: 10:30AM

Place: East Bldg, Copper Room

MEMBERS

COMMISSION MEMBERS

xChair, Kirk Smith, *Weber Cnty*

xMatt Sager, *Maricopa Cnty, AZ*

xCo-Chair, Larry Blake, *Washington Cnty*

Sylvia Andersen, *Public Member*

xJeff Wiener, *Salt Lake Cnty*

DEPARTMENT STAFF

xPerri Babalis, *AG Counsel*

xBrett Barratt, *Deputy Comm.*

xMark Kleinfield, *ALJ*

xSuzette Green-Wright, *MC Dir.*

xTammy Greening, *Examiner*

xJilene Whitby, *PIO Recorder*

PUBLIC

David Moore

Carol Yamamoto

Tige Garner

Kimberly Stevens

Blake Heiner

Clayton Hansen

James Seaman

Wade Taylor

Scott Cope

Pete Stevens

MINUTES

General Session: (Open to the Public)

• **Welcome / Kirk Smith, Chair**

At 11:06 Kirk started the meeting and welcomed Larry Blake back.

• **Adopt Minutes of Previous Meeting**

Kirk suggested deleting the last sentence of the Williams Title bullet. **Motion** by Jeff to adopt minutes with the change, seconded by Matt, vote was unanimous.

• **Reports**

○ **Concur with Licensee Report / Tammy**

Motion by Jeff to concur; seconded by Larry, vote was unanimous.

○ **Concur with Complaint & Enforcement Report / Suzette**

Report missing page 5. **Motion** by Jeff to concur with the Report and to include update of the page missing in next month's report, seconded by Larry, vote was unanimous.

○ **Request for Dual Licensee Expedited Request: None**

○ **Request for Attorney Exemption: Kimberly L. Stevens, Esq.**

Ms. Stevens provided her background. She has worked with municipalities in landlord tenant and landlord tenant disputes, trust deeds and contract enforcement. **Motion** by Jeff to approve the exemption, seconded by Matt, vote was unanimous.

• **Administrative Proceedings Action / Mark Kleinfield, ALJ**

○ **Stipulation & Order:**

▪ **First American Title Ins. Co.**

- Matt recused himself and excused himself from the discussion and vote.
- During January 2009 to Dec 2010 there were 19 title closings. Proposed forfeiture of \$73,000. Larry thought the forfeiture was higher than normal for 19 closings. Staff noted that American also failed to file escrow charges. Suzette noted that the Matrix allows up to \$5,000 per violation. The forfeiture could be higher since it is a company. **Motion** by Larry to concur, seconded by Jeff, vote was unanimous.

- **Request for a Hearing:** None
- **Order to Show Cause:** None
- **Informal Adjudicative Proceeding & Order:** None
- **Notice of Formal Adjudicative Proceeding:** None
- **New Business**
 - **Update on Rulemaking Process for R592-2.**
 - Kirk noted that the department received 23 comments; 13 comments in favor of the changes and 9 against, with 1 neutral.
 - Jeff thanked Matt for his work on the rule changes. Jeff made a **motion** to let the changes die. Matt would like to continue to clarify the rule. Paul Newton noted changes he would like to see made to the table. Jeff suggested taking the issue off the agenda, gather comments then put on as New Business when ready. Brett said the Department would like to see some of the changes made a part of the rule sometime.
 - Kirk noted that the **motion** was to not move forward with the changes to the rule. Take the rule off the agenda. Matt seconded the motion and the vote was unanimous.
- **Old Business**
 - **Discuss Proposed Rule: Prohibited Escrow Settlement Closing Transactions / Jeff**
 - Jeff said the rule was intended to protect consumers from fraud property is flipped.
 - Pete provided an Utah Association of Realtors Form for simultaneous closings. Blake did not have his definitions ready.
 - Larry said the bulletin spoke to two issues; the good funds law and the need to issue a title insurance policy.
 - Question: Does a flip occur an hour, a day, a week or a month after a closing?
 - When do we start disclosing? When is a flip transaction not a flip transaction?
 - Make sure each of the transactions is stand-alone and conforms to good funds law.
 - Larry said the addendum is not used much and escrow officers don't know when it is. He did not think it was up to the title industry to make sure the addendum was used. Matt agreed. Question arose; "Who is responsible for the disclosure?" If transaction from A-B completes then the second transaction would show B in title.
 - Joseph said that as per R592-4-4, Real estate considers closing as recorded and funded. Closing and recording could be redundant as per Matt. Closing needs to be clarified. Brett R592-3(1) needs rewording. Add wording to 3(1)(c) to fill in a step missing.
 - Dave suggested taking definition of "Closing" out of REPC.
 - Larry suggested taking wording about fraud from Purpose and Scope Section.
 - One person suggested deleting Subsection 1 and 3 in Section 4. Jeff agreed.
 - Jeff will provide update of rule next month.
 - Jeff made a **motion** to leave on Old Business, seconded by Larry, vote unanimous.
 - **Williams Title Guaranty and Escrow Agency, Ltd, Inc. / Perri**

Perri said that parties in this case had been notified of the Commission's vote. Brett said the vote was a tie last month. It was suggested that they dismiss the order.
- **Other Business**

Executive Session (Closed to Public)

General Session: (Open to the Public)

- **Adjourn:** At 12:22 PM Matt made a **motion** to adjourn, seconded by Jeff.

Meeting Dates

Jan 13	Feb 10	Mar 10	Apr 14	May 12	Jun 9
Jul 14	Aug 11	Sept 8	Oct 20	Nov 10	Dec 8